

Court of Appeals, State of Michigan

ORDER

Damjan Juncaj v Calandra Enterprises Inc

Docket No. 280490

LC No. 06-004216-NO

E. Thomas Fitzgerald
Presiding Judge

Henry William Saad

Deborah A. Servitto
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the August 23, 2007, order of the Macomb Circuit Court denying summary disposition to defendant hereby is REVERSED. Even taking the facts most favorably to plaintiff, the non-moving party, black ice on a Michigan parking lot in December is a well-known, open and obvious danger such that defendant is not liable for plaintiff's injuries. See *Kenny v Kaatz Funeral Home, Inc*, 472 Mich 929; 697 NW2d 526 (2005) (*Kenny II*); *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 519; 629 NW2d 384 (2001). This is particularly true where, as here, the surrounding grass was covered with snow. As a matter of law, an ice-covered surface, such as the parking lot in this case, presents an open and obvious danger given the high probability that it will be slippery. See *Kaseta v Binkowski*, 480 Mich 929 (2007); *Ververis v Hartfield Lanes (On Remand)*, 271 Mich App 61, 67; 718 NW2d 382 (2006). Also, the record before this Court does not show that the parking lot had special aspects that would remove it from the open and obvious danger doctrine. See *Kenny II, supra*, citing *Kenny v Kaatz Funeral Home, Inc*, 264 Mich App 99, 121; 689 NW2d 737 (2004) Griffin, J., dissenting (*Kenny I*).

In light of the resolution of this issue, the Court does not discuss the remaining issues raised by the parties. This case is REMANDED to the circuit court for further proceedings consistent with this order. This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.

Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 24 2008

Date

Sandra Schultz Mengel
Chief Clerk